



State of Utah

Department of
Environmental Quality

Richard W. Sprott
Executive Director

DIVISION OF AIR QUALITY
Cheryl Heying
Director

JON M. HUNTSMAN, JR.
Governor

GARY HERBERT
Lieutenant Governor

DAQ-005-08

M E M O R A N D U M

TO: Air Quality Board

THROUGH: Cheryl Heying, Executive Secretary

FROM: Mat Carlile, Environmental Planning Consultant

DATE: February 6, 2008

SUBJECT: Five-Year Reviews: R307-102. General Requirements: Broadly Applicable Requirements; R307-202. Emission Standard: General Burning; R307-203. Emission Standard: Sulfur Content of Fuels; R307-220. Emission Standard: Plan for Designated Facilities; and R307-250. Western Backstop Sulfur Dioxide Trading Program.

Background


Title 63, Chapter 46a of the Utah Code requires all state agencies to review each of their rules at least every fifth year. This review verifies that the rules are still authorized by statute and necessary. We have completed the five-year review for R307-102, General Requirements: Broadly Applicable Requirements; R307-202. Emission Standard: General Burning; R307-203. Emission Standard: Sulfur Content of Fuels; R307-220. Emission Standard: Plan for Designated Facilities; R307-250. Western Backstop Sulfur Dioxide Trading Program, and they are still authorized and required. Therefore, staff recommends that the Board continue these rules.

Staff Recommendation: Staff recommends that the Board approve the attached forms to be filed with the Division of Administrative Rules.

State of Utah

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION											
DAR file no:	Date filed:										
Utah Admin. Code ref. (R no.): R307-102	Time filed:										
1. Agency: Environmental Quality/Air Quality Room no.: Building: Street address 1: 150 N 1950 W Street address 2: City, state, zip: SALT LAKE CITY, UT 84116-3085 Mailing address 1: PO BOX 144820 Mailing address 2: City, state, zip: SALT LAKE CITY, UT 84114-4820 Contact person(s): <table style="width: 100%; border: none;"> <tr> <td style="width: 25%;">Name:</td> <td style="width: 25%;">Phone:</td> <td style="width: 25%;">Fax:</td> <td style="width: 25%;">E-mail:</td> <td style="width: 20%;">Remove:</td> </tr> <tr> <td>Mat E. Carlile</td> <td>801-536-4136</td> <td>801-536-0085</td> <td>MCARLILE@utah.gov</td> <td></td> </tr> </table>		Name:	Phone:	Fax:	E-mail:	Remove:	Mat E. Carlile	801-536-4136	801-536-0085	MCARLILE@utah.gov	
Name:	Phone:	Fax:	E-mail:	Remove:							
Mat E. Carlile	801-536-4136	801-536-0085	MCARLILE@utah.gov								
(Interested persons may inspect this filing at the above address or at DAR between 8:00 a.m. and 5:00 p.m. on business days.)											
2. Title of rule or section (catchline):	General Requirements: Broadly Applicable Requirements										
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require the rule:	Subsection 19-2-104(1)(a) allows the Air Quality Board to make rules regarding emission of air pollutants, and Subsection 19-2-104(1)(c) sets forth the kinds of information that sources of air pollution must provide, as addressed in Section R307-102-1. Section R307-102-4 is authorized by Section 19-2-113, and sets forth conditions under which the Air Quality Board may authorize variances from Title R307. The federal Clean Air Act, 42 U.S.C. 7401, requires that sources of air pollution not reduce the pay of any employee under certain circumstances, as addressed in Section R307-102-5.										
4. A summary of written comments received during and since the last five-year review of the rule from interested persons supporting or opposing the rule:	No comments have been received since the last five year review.										
5. A reasoned justification for continuation of the rule, including reasons why the agency disagrees with comments in opposition to the rule, if any:	R307-102 is needed to specify the conditions for issuing variances, for confidentiality of information submitted, and to require that information be made available to the Air Quality Board; and should be continued. In addition, R307-102 is a component of Utah's State Implementation Plan, and cannot be deleted without EPA approval.										
6. Indexing information - keywords (maximum of four, in lower case):	air pollution, confidentiality of information, variances*										
7. Attach an RTF document containing the text of this rule change (filename):	There is currently a document associated with this filing. Rule Text										
To the agency: Information requested on this form is required by Section 63-46a-9. Incomplete forms will be returned to the agency for completion, possibly delaying the effective date.											

AGENCY AUTHORIZATION

Agency head or designee, and title: 	01/10/2008 Date (mm/dd/yyyy):
Non Printable	

State of Utah

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR file no:

Date filed:

Utah Admin. Code
ref. (R no.):

R307-202

Time filed:

1. Agency: Environmental Quality/Air Quality

Room no.:

Building:

Street address 1: 150 N 1950 W

Street address 2:

City,state,zip: SALT LAKE CITY, UT 84116-3085

Mailing address 1: PO BOX 144820

Mailing address 2:

City,state,zip: SALT LAKE CITY, UT 84114-4820

Contact person(s):**Name:****Phone:****Fax:****E-mail:****Remove:**

Mat E. Carlile

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(Interested persons may inspect this filing at the above address or at DAR between 8:00 a.m. and 5:00 p.m. on business days.)

2. **Title of rule or section (catchline):**

Emission Standards: General Burning

3. **A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require the rule:**

Subsection 19-2-104(1)(a) allows the Air Quality Board to make rules "...regarding the control, abatement, and prevention of air pollution from all sources..." Rule R307-202 sets forth the conditions under which burning of yard clippings is allowed, forbids burning at community waste disposal sites and the burning of trash or garbage. R307-202 does not regulate fireplaces or outdoor grills.

4. **A summary of written comments received during and since the last five-year review of the rule from interested persons supporting or opposing the rule:** R307-202 was proposed for amendment once since the last five year review, DAR No. 27292. There where two comments received about this proposed rulemaking. One comment supported the proposed rule. However, the other comment was adverse to the proposal, because it removed an exemption that allowed a regulated entity to dispose of highly volatile materials by open burning. RESPONSE: Due to comments received on the proposed amendment the Air Quality Board decided it would be best if the amendment was allowed to lapse and the previous version of R307-202 remained in effect. Ted Black, Weber County Fire Marshal petitioned the Board to revise R307-202. Specifically he asked that the Board define horticultural and agricultural operations used in R307-202-1, and he asked the Board to provide more flexibility to the 30-day notification that is found in R307-202-5(3). RESPONSE: The Board has not made an explicit definition of what horticultural and agricultural operations are, relying instead upon definitions already contained in statute. Additionally, we determined that the existing rule already provides the flexibility requested, and we notified Mr. Black of that determination; therefore, the rule was not revised. No other comments were received since the last five-year review.

5. **A reasoned justification for continuation of the rule, including reasons why the agency disagrees with comments in opposition to the rule, if any:**

Due to the comments received during the public comment period the proposed amendment was repelled, and the previous version of R307-202 was reinstated. R307-202 is necessary to specify time windows when local officials may allow burning for yard cleanup, and to set forth the kinds of burning for which permits are not needed; and should be continued. In addition, R307-202 is a component of Utah's State Implementation Plan, and cannot be deleted without EPA approval.

6. **Indexing information - keywords (maximum of four, in lower case):**

air pollution, open burning*, fire marshal*

7. **Attach an RTF document containing the text of this rule change (filename):**

There is currently a document associated with this filing.

Rule Text

To the agency: Information requested on this form is required by Section 63-46a-9. Incomplete forms will be returned to the agency for completion, possibly delaying the effective date.

AGENCY AUTHORIZATION

Agency head or designee,
and title:

Donna C. B. J.

01/10/2008 Date
(mm/dd/yyyy):

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State of Utah

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR file no:

Date filed:

Utah Admin. Code ref. (R R 307 - 203
no.):

Time filed:

1. Agency: Environmental Quality/Air Quality

Room no.:

Building:

Street address 1: 150 N 1950 W

Street address 2:

City,state,zip: SALT LAKE CITY, UT 84116-3085

Mailing address 1: PO BOX 144820

Mailing address 2:

City,state,zip: SALT LAKE CITY, UT 84114-4820

Contact person(s):

Name: Phone:

Fax:

E-mail:

Remove:

Mat E. Carlile 801-536-4136

801-536-0085

MCARLILE@utah.gov

Remove

Add Contact

(Interested persons may inspect this filing at the above address or at DAR between 8:00 a.m. and 5:00 p.m. on business days.)

2. Title of rule or section (catchline):

Emission Standards: Sulfur Content of Fuels

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require the rule:

Rule R307-203 establishes the maximum amount of sulfur that may be contained in coal and oil burned in industrial processes and residential heating, thus holding down the emissions of sulfur dioxide from these processes. Subsection

4. A summary of written comments received during and since the last five-year review of the rule from interested persons supporting or opposing the rule:

No comments have been received since the last five year review.

5. A reasoned justification for continuation of the rule, including reasons why the agency disagrees with comments in opposition to the rule, if any:

Without this rule, users could burn coal or oil with higher sulfur content, thus emitting more sulfur dioxide into the atmosphere. Sulfur dioxide is harmful to human health so this rule should be continued. In addition, R307-

6. Indexing information - keywords (maximum of four, in lower case):

air pollution, fuel composition*, fuel oil*

7. Attach an RTF document containing the text of this rule change (filename):

There is currently a document associated with this filing. Add/Edit...

To the agency: Information requested on this form is required by Section 63-46a-9. Incomplete forms will be returned to the agency for completion, possibly delaying the effective date.

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01/10/2008

State of Utah

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION													
DAR file no:		Date filed:											
Utah Admin. Code ref. (R no.):		Time filed:											
R307-220													
1. Agency: Environmental Quality/Air Quality Room no.: Building: Street address 1: 150 N 1950 W Street address 2: City, state, zip: SALT LAKE CITY, UT 84116-3085 Mailing address 1: PO BOX 144820 Mailing address 2: City, state, zip: SALT LAKE CITY, UT 84114-4820 Contact person(s): <table style="width: 100%; border: none;"> <tr> <td style="width: 25%;">Name:</td> <td style="width: 25%;">Phone:</td> <td style="width: 25%;">Fax:</td> <td style="width: 25%;">E-mail:</td> <td style="width: 20%;">Remove:</td> </tr> <tr> <td>Mat E. Carlile</td> <td>801-536-4136</td> <td>801-536-0085</td> <td>MCARLILE@utah.gov</td> <td></td> </tr> </table>				Name:	Phone:	Fax:	E-mail:	Remove:	Mat E. Carlile	801-536-4136	801-536-0085	MCARLILE@utah.gov	
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(Interested persons may inspect this filing at the above address or at DAR between 8:00 a.m. and 5:00 p.m. on business days.)													
2.	Title of rule or section (catchline): Emission Standards: Plan for Designated Facilities												
3.	A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require the rule: Subsection 19-2-104(3)(q) allows the Air Quality Board to implement the requirements of federal air pollution laws. Under Section 111(d) of the Clean Air Act (42 U.S.C. 7411(d)), EPA issues standards of performance for existing sources at the time standards are issued for new sources, and states are required to prepare plans and rules to implement the standards for existing sources. R307-220 incorporates by reference the Utah Plans written to meet this requirement.												
4.	A summary of written comments received during and since the last five-year review of the rule from interested persons supporting or opposing the rule: No comments were received since the last five-year review.												
5.	A reasoned justification for continuation of the rule, including reasons why the agency disagrees with comments in opposition to the rule, if any: R307-220 is required by 42 U.S.C. 7411(d) (Clean Air Act 111(d)).												
6.	Indexing information - keywords (maximum of four, in lower case): air pollution, landfills, environmental protection, incinerators												
7.	Attach an RTF document containing the text of this rule change (filename): There is currently a document associated with this filing. Rule Text												
To the agency: Information requested on this form is required by Section 63-46a-9. Incomplete forms will be returned to the agency for completion, possibly delaying the effective date.													

AGENCY AUTHORIZATION

Agency head or designee, and title: <i>By: [Signature]</i>	01/10/2008 Date (mm/dd/yyyy):
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State of Utah

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR file no:	Date filed:		
Utah Admin. Code ref. (R no.):	R307-250	Time filed:	

1. Agency: Environmental Quality/Air Quality

Room no.:

Building:

Street address 1: 150 N 1950 W

Street address 2:

City,state,zip: SALT LAKE CITY, UT 84116-3085

Mailing address 1: PO BOX 144820

Mailing address 2:

City,state,zip: SALT LAKE CITY, UT 84114-4820

Contact person(s):

Name:	Phone:	Fax:	E-mail:	Remove:
Mat E. Carlile	801-536-4136	801-536-0085	MCARLILE@utah.gov	

(Interested persons may inspect this filing at the above address or at DAR between 8:00 a.m. and 5:00 p.m. on business days.)

2. **Title of rule or section (catchline):**
Western Backstop Sulfur Dioxide Trading Program
3. **A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require the rule:**
Subsection 19-2-104(1)(a) authorizes the Air Quality Board to make rules "...regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air contaminants that may be emitted by any air contaminant source." Subsection 19-2-104(3)(e) states that the board may "prepare and develop a comprehensive plan or plans for the prevention, abatement, and control of air pollution in this state." R307-250 is required to implement the provisions of the State Implementation Plan (SIP), Section XX, the Regional Haze Plan. The Plan is required under 40 CFR Part 51, Subpart P, Visibility. The Plan requires a backstop trading program for emissions of sulfur dioxide from large sources, and R307-250 sets forth the requirements sources would have to meet if the program is ever triggered.
4. **A summary of written comments received during and since the last five-year review of the rule from interested persons supporting or opposing the rule:** No comments have been received since the creation of R307-250.
5. **A reasoned justification for continuation of the rule, including reasons why the agency disagrees with comments in opposition to the rule, if any:**
R307-250 is required to implement the provisions of the State Implementation Plan (SIP), Section XX, the Regional Haze Plan, required under 40 CFR Part 51, Subpart P.
6. **Indexing information - keywords (maximum of four, in lower case):**
air pollution, sulfur dioxide, market trading program
7. **Attach an RTF document containing the text of this rule change (filename):**
No document is associated with this filing.

To the agency: Information requested on this form is required by Section 63-46a-9. Incomplete forms will be returned to the agency for completion, possibly delaying the effective date.

AGENCY AUTHORIZATION

Agency head or designee, and title:	<i>Boye Carlile</i>	Date (mm/dd/yyyy):	01/10/2008
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